

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)	
Plaintiff,)	
)	
vs.)	CAUSE NO. 1:23-cr-00151-JRS-MJD
)	
DANIEL CARMICHAEL,)	
Defendant.)	

REPORT AND RECOMMENDATION

On March 4, 2024, the Court held a hearing on the Petition for Warrant or Summons for Offender Under Supervision filed on December 22, 2023, and order granting on December 28, 2024. [Filing Nos. 7, 8.] Defendant, Daniel Carmichael appeared in person with his appointed counsel Gwendolyn Beitz. The government appeared by Jayson McGrath, Assistant United States Attorney. U. S. Parole and Probation appeared by James H. Thomas.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. § 3583:

1. The Court advised Defendant of his rights and provided him with a copy of the petition. Defendant orally waived his right to a preliminary hearing.
2. After being placed under oath, Defendant admitted violation numbers 1, 2 and 3. [Filing Nos. 7, 8.]
3. The allegations to which Defendant admitted, as fully set forth in the petition, are:

**Violation
Number**

Nature of Noncompliance

- | | |
|---|---|
| 1 | "You shall reside in a residential reentry center for a term of up to 180 days. You shall abide by the rules and regulations of the facility." |
|---|---|

On December 18, 2023, Mr. Carmichael left the residential reentry center to attend approved appointments and was expected back at 2:00 p.m. As of the writing of this report, Mr. Carmichael has failed to return to the facility and his whereabouts are unknown.

- 2 **"The defendant shall not possess or use a computer, internet-capable device, or similar electronic device or have access to any online service without the prior approval of the Probation Officer."**

As previously reported to the Court, this officer was contacted by staff at the Volunteers of America (VOA) on November 29, 2023, indicating they observed Mr. Carmichael in possession of what appeared to be two Internet-enabled devices. Staff at the facility confronted Mr. Carmichael and found he was in possession of two devices which were not approved or being monitored by the probation officer. The unapproved/unmonitored devices were obtained by this officer for forensic review, and as of December 20, 2023, this officer was advised no illicit content was discovered on the aforementioned devices.

- 3 **"The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense."**

Mr. Carmichael was residing at a residential reentry center (temporary housing) and required by Indiana State Law to update the sex offender registry on a weekly basis. On December 18, 2023, he absconded from the facility and his whereabouts are unknown. He last reported to the Marion County, Indiana, Sheriff's office on December 11, 2023, to update the registry. He failed to report on December 18, 2023, as required to register. Additionally, per state law, he has an obligation to update the registry with any change of residence within 72 hours. However, he has not complied.

4. The parties stipulated that:
- (a) The highest grade of violation is a Grade B violation.
 - (b) Defendant's criminal history category is V.
 - (c) The range of imprisonment applicable upon revocation of supervised release, therefore, is 18 to 24 months' imprisonment.

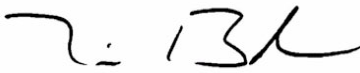
5. The parties jointly recommended a sentence of 20 months' imprisonment with no supervised release to follow.

The Magistrate Judge, having considered the factors in 18 U.S.C. § 3553(a), and as more fully set forth on the record, finds that the Defendant violated the conditions in the petition, that his supervised release should be revoked, and that he should be sentenced to the custody of the Attorney General or his designee for a period of 20 months' imprisonment with no supervised release to follow. Magistrate Judge recommends the Defendant receive a mental health assessment and treatment in the facility. The Defendant is to be taken into custody immediately pending the District Judge's action on this Report and Recommendation.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge.

The parties waived the fourteen-day period to object to the Report and Recommendation.

Date: 3/4/2024



Tim A. Baker
United States Magistrate Judge
Southern District of Indiana

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